IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 839 of 2004 (M/S).

Padam Singh & another. …. Petitioners

Civil Judge (J.D.)Dehradun & another. …..Respondents

HON'BLE RAJESH TANDON J.

By the present writ petition the petitioners have prayed for a writ of certiorari quashing the impugned order dated 26.08.2004.

Briefly stated, a suit was filed by the plaintiff praying for a decree for permanent injunction restraining the defendants from taking possession of the land in suit or form raising any constructions thereon or changing the nature of the land in suit. Written statement has already been filed by the petitioners.

The grievance of the petitioners are that they have filed two applications on 14th July, 2004 and both the applications have been rejected.'

First application relates to the filing of the documents. The court below has declined to admit the documents on the ground that the proper application has not been filed. Subject to the filing of the proper application alongwith the affidavit the documents already on the record shall be considered by the court below.

So far as second application with regard to the appointment of the Amin is concerned for the valuation of the suit property, the learned Judge has already framed an issue while deciding the suit the learned

Judge if he considers that the appointment of the Amin is necessary in order to evaluate the suit property, the discretion many be exercised at the time of deciding the issue itself.

Since issue No.5 is already there with to the valuation, the trial court will consider proper the same while deciding the issue itself, he will appoint an Amin for the valuation of the suit property itself. No separate orders are required at this stage. Any orders passed by the courts below will not come in the way of the petitioners and the observation made above shall be complied with.

Subject to the aforesaid observations, the writ petition is disposed of. No order as to costs.

Certified copy of this order may be issued tomorrow.

Dated: 13.09.2004. **(Rajesh Tandon J)**
S.S.Negi.